



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/451,341	11/30/1999	KEN BURROUGHS	TKMA.65581	8911

7590 10/21/2002

WILLIAM B KIRCHER
SHOOK HARDY & BACON LLP
ONE KANSAS CITY PLACE
1200 MAIN STREET
KANSAS CITY, MO 641052118

EXAMINER

ROWAN, KURT C

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 10/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/451,341	Applicant(s) BURROUGHS et al.	
	Examiner KURT ROWAN	Art Unit 3643	
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>			
Period for Reply			
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.			
<ul style="list-style-type: none"> - Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 			
Status			
1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>Jul 9, 2002</u>			
2a) <input checked="" type="checkbox"/> This action is FINAL.		2b) <input type="checkbox"/> This action is non-final.	
3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11; 453 O.G. 213.			
Disposition of Claims			
4) <input checked="" type="checkbox"/> Claim(s) <u>1-4, 6-9, 11-13, 15-19, and 21</u> is/are pending in the application.			
4a) Of the above, claim(s) _____ is/are withdrawn from consideration.			
5) <input type="checkbox"/> Claim(s) _____ is/are allowed.			
6) <input checked="" type="checkbox"/> Claim(s) <u>1-4, 6-9, 11-13, 15-19, and 21</u> is/are rejected.			
7) <input type="checkbox"/> Claim(s) _____ is/are objected to.			
8) <input type="checkbox"/> Claims _____ are subject to restriction and/or election requirement.			
Application Papers			
9) <input type="checkbox"/> The specification is objected to by the Examiner.			
10) <input type="checkbox"/> The drawing(s) filed on _____ is/are a) <input type="checkbox"/> accepted or b) <input type="checkbox"/> objected to by the Examiner. <p style="margin-left: 20px;">Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).</p>			
11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved by the Examiner. <p style="margin-left: 20px;">If approved, corrected drawings are required in reply to this Office action.</p>			
12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.			
Priority under 35 U.S.C. §§ 119 and 120			
13) <input type="checkbox"/> Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). <p style="margin-left: 20px;">a) <input type="checkbox"/> All b) <input type="checkbox"/> Some* c) <input type="checkbox"/> None of:</p> <ol style="list-style-type: none"> 1. <input type="checkbox"/> Certified copies of the priority documents have been received. 2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____. 3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). 			
<p style="margin-left: 20px;">*See the attached detailed Office action for a list of the certified copies not received.</p>			
14) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e). <p style="margin-left: 20px;">a) <input type="checkbox"/> The translation of the foreign language provisional application has been received.</p>			
15) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.			
Attachment(s)			
1) <input type="checkbox"/> Notice of References Cited (PTO-892)		4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____	
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)		5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)	
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____		6) <input type="checkbox"/> Other: _____	

Art Unit: 3643

DETAILED ACTION

Claim Rejections - 35 U.S.C. § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 4, 6, 7-9, 11-13, 15-19, 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Woolworth.

The patent to Woolworth shows a live well tank having a bottom 2, sidewall section 1, a top 3 having an opening 6 with the top having an upper surface projecting inwardly from the sidewall section to cover a portion of the interior compartment. Woolworth shows a baffle 20 coupled to the sidewall section extending inwardly from the sidewall section into the interior compartment having a first surface 23 extending generally horizontally from the sidewall section. Woolworth shows a second surface 25 extending outwardly toward the sidewall section to form an upper section of the interior compartment between the baffle and the top. In reference to claim 1 and 16, Woolworth shows an overflow drain 26 coupled with the sidewall section of the tank between the top and the baffle whereby the upper section is capable of retaining water near the top of the compartment. In reference to claims 6 and 17, Woolworth shows the baffle extending completely around the sidewall section. In reference to claims 7 and 15, Woolworth shows the

Art Unit: 3643

first surface having a lower generally planar surface where the ring 20 meets bead 24 and a second curved surface since surface 25 is cylindrical. In reference to claims 8, 18, Woolworth shows a ledge surface 5 extending outwardly from the sidewall section 1. In reference to claims 11 and 19, Woolworth shows a sealing flange 10 upstanding from the upper surface of the top 3. In reference to claims 11 and 21, Woolworth shows a collar 7 coupled with the sealing flange 10. The collar appears to be made from metal which is a resilient material.

Claim Rejections - 35 U.S.C. § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Woolworth.

The patent to Woolworth shows a live well tank for use on a boat to hold fish as discussed above. In reference to claim 3, Woolworth appears to show a circular opening, but it would have been obvious to a rectangular opening since the function is the same and no stated problem is solved.

Art Unit: 3643

Response to Arguments

5. Applicant's arguments filed July 9, 2002 have been fully considered but they are not persuasive. The floatation ring of Woolworth acts as a baffle since the ring retards sloshing within the bucket (column 2, lines 60-62). Since the passages are part of the floatation ring, the ring can be considered as a baffle. The ring extends outwardly towards the sidewall to form an upper section of the interior compartment. The second surface is located between the bottom of the baffle such as reference numeral 23 in Fig. 1 and the top. The passageways formed by the second surface act as an upper section or a second compartment that is used to minimize sloshing. Woolworth shows a front wall directed in the direction of forward motion of a boat wherein the overflow drain is coupled with the front wall. The claims do not require or state that the upper section is open or that a vertical section of the sidewall is between the overflow drain and the second surface.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

Art Unit: 3643

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KURT ROWAN whose telephone number is (703) 308-2321.

The examiner can normally be reached on Monday-Thursday from 6:30 a.m. to 5:00 p.m.

The fax phone number for the organization where this application or proceeding is assigned is (703) 306-4195 or (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Art Unit: 3643



KURT ROWAN

PRIMARY EXAMINER

ART UNIT 3643

October 21, 2002